

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1318

INTRODUCER: Senator Rouson

SUBJECT: Education for Prisoners

DATE: January 26, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Favorable
2.			ACJ	
3.			AP	

I. Summary:

SB 1318 amends ss. 951.176 and 944.801, F.S., authorizing a county or municipal detention facility or the Department of Corrections (DOC) to contract with a district school board, the Florida Virtual School, or a charter school (school provider) to provide educational services to its inmates. The educational services may include any educational, career, or vocational training.

The bill also amends s. 1011.80, F.S., to allow state funding for postsecondary education to be used on inmates with less than 24 months of time remaining on his or her sentence.

The bill will likely have no fiscal impact on the school districts. If the DOC or county or municipal detention facilities elect to contract with a school provider to provide services under such contract, the services will need to be funded out of the lump sum appropriation provided to the K-20 entities for workforce education or the lump sum appropriation provided to the DOC or county and municipal entities for the education of inmates.

The bill is effective July 1, 2018.

II. Present Situation:

A defendant that is convicted of a crime in the state of Florida is subject to county jail or prison time based upon the degree of the offense. A number of factors are taken into consideration when determining whether a defendant will be committed to the custody of the jail or the DOC. A defendant convicted of a misdemeanor offense can be committed to the custody of the county's chief correctional officer for no more than one year for a first degree misdemeanor or 60 days for a second degree misdemeanor.¹

¹ Section 775.082(4), F.S.

For a defendant convicted of a felony offense, the Criminal Punishment Code² (Code) applies to sentencing for felony offenses committed on or after October 1, 1998.³ The permissible sentence (absent a downward departure) for an offense ranges from the calculated lowest permissible sentence as determined by the Code to the statutory maximum for the primary offense. The statutory maximum sentence for a first-degree felony is 30 years, for a second-degree felony is 15 years, and for a third degree felony is 5 years.⁴

Education For County Inmates

Section 951.176, F.S., requires county and municipal detention facilities⁵ to provide educational services to minors detained in such facilities if the minor has not graduated from high school or is an eligible student with disabilities under the age of 22 who has not graduated with a standard diploma or its equivalent. The educational services must be offered by the local school district in which the facility is located.⁶ These educational services are based on the estimated length of time the youth will be in the facility and the youth's current level of functioning. School district superintendents or their designees must be notified by the county's chief correctional officer if a youth under the age of 21 is accepted into the facility.⁷

Florida law is silent as to whether a county or municipal detention facility is required to provide educational services to its adult inmates. However, s. 951.175, F.S., requires women inmates in a county or municipal detention facility to have access to programs of education and vocational training that are equivalent to those programs which are provided to male inmates.

Education for State Prisoners

Florida law establishes under the DOC a Correctional Education Program (CEP), which must be composed of the educational facilities and services of all institutions, and facilities housing inmates operated by the DOC.⁸ The duties of the CEP include, but are not limited to:

- Developing guidelines for collecting education-related information during the inmate reception process and for disseminating such information to the classification staff of the DOC.⁹

² Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

³ Section 921.0022, F.S.

⁴ See s. 775.082, F.S.

⁵ Section 951.23(1)(a) and (d), F.S., define county detention facility to mean a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either a felony or misdemeanor; and a municipal detention facility to mean a city jail, a city stockade, a city prison camp, and any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of violation of municipal laws or ordinances.

⁶ Section 951.176, F.S.

⁷ Section 951.176, F.S., also requires the development of a cooperative agreement with the local school district and applicable law enforcement units to address the notification requirement and the provision of educational services to these youth.

⁸ Section 944.801(1), F.S.

⁹ Section 944.801(3)(a), F.S., also provides that the information collected must include the inmate's areas of educational or vocational interest, vocational skills, and level of education.

- Approving educational programs of the appropriate levels and types in the correctional institutions and developing procedures for the admission of inmate students into such programs.¹⁰
- Entering into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out the CEP duties.¹¹
- Ensuring that such local agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education standards.¹²
- Developing and maintaining complete and reliable statistics on the number of high school equivalency diplomas and vocational certificates issued by each institution in each skill area, the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses.¹³
- Ensuring every inmate who has two years or more on his or her sentence at the time of being received at an institution and who lacks basic and functional literacy skills as defined in s. 1004.02, F.S.,¹⁴ attends not less than 150 hours of sequential instruction in a correctional adult basic education program.¹⁵
- Ensure that all education staff are certified in accordance with the Department of Education standards.¹⁶

Providers of K-20 Education in Florida

School Districts

A district school system includes all public schools, classes, and courses of instruction and all services and activities directly related to education in that district which are under the direction of the district school officials.¹⁷ Among providing traditional instruction to its K-20 students, any district school board, after first obtaining the approval of the Department of Education, may, as a part of the district school system, organize, establish and operate a career center, or acquire and operate a career center previously established.¹⁸

¹⁰ Section 944.801(3)(d), F.S.

¹¹ Section 944.801(3)(e), F.S.

¹² *Id.*

¹³ Section 944.801(3)(g), F.S.

¹⁴ Section 1004.02(4), F.S., defines basic literacy to mean the demonstration of academic competence from 2.0 through 5.9 educational grade levels as measured by means approved for this purpose by the State Board of Education. Section 1004.02(15), F.S., defines functional literacy to mean the demonstration of academic competence from 6.0 through 8.9 educational grade levels as measured by means approved for this purpose by the State Board of Education.

¹⁵ Section 944.801(3)(i), F.S., further provides that highest priority of inmate participation must be focused on youthful offenders and those inmates nearing release from the correctional system and that an inmate is not allowed to participate in the adult basic education program if he or she is serving a life sentence or is under sentence of death, specifically exempted for security or health reasons, housed at a community correctional center, road prison, work camp, or vocational center, attains a functional literacy level after attendance in fewer than 150 hours of adult basic education instruction, or is unable to enter such instruction because of insufficient facilities, staff, or classroom capacity.

¹⁶ Section 944.801(3)(k), F.S. See ss. 1002.33(12)(f), 1012.54, 1012.55, and 1012.56, F.S.

¹⁷ Section 1001.31, F.S.

¹⁸ Section 1001.14, F.S.

Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”¹⁹ The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.²⁰ One of the guiding principles of charter schools is to meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state’s public school system.²¹ The school must be operated by a Florida College System institution, municipality, or nonprofit organization. While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.²² A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.²³

Virtual Instruction

The Florida Virtual School (FVS) is established for the development and delivery of online and distance learning education and its mission is to provide students with technology-based educational opportunities to gain the knowledge and skills necessary to succeed.²⁴ The school must serve any student in the state and must give priority to:

- Students who need expanded access to courses in order to meet their educational goals, such as home education students and students in inner-city and rural high schools who do not have access to higher-level courses; and
- Students seeking accelerated access in order to obtain a high school diploma at least one semester early.²⁵

There is no specific prohibition against district, charter, or virtual schools providing classes to local or state inmates or in defining “student” to exclude inmates from such instruction.

Workforce Education Through K-20 School Providers

Florida school districts are also encouraged to develop educational opportunities for adults who have earned a diploma or high school equivalency diploma, but who lack the basic skills necessary to function effectively in everyday situations, to enter the job market, or to enter career certificate instruction.²⁶ Each district school board or Florida College System institution board of trustees must negotiate with the local workforce development board for basic and functional literacy skills assessments for participants in the welfare transition employment and training programs. Such assessments are conducted at a site mutually acceptable to the district school board or Florida College System institution board of trustees and the local workforce development board.²⁷

¹⁹ Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

²⁰ Section 1002.33(2)(b)3. and (16), F.S.

²¹ Section 1002.33(2)(a)1., F.S.

²² Section 1002.33(12)(i), F.S.

²³ Section 1002.33(5)(a)1., F.S.

²⁴ Section 1002.37(1), F.S.

²⁵ Section 1002.37(b), F.S.

²⁶ Section 1004.93(1), F.S.

²⁷ Section 1004.93(3)(a), F.S.

Any workforce education program may be conducted by a Florida College System institution and school district unless restricted by statute.²⁸ Additionally, s. 1004.98, F.S., establishes the workforce literacy program within the Florida College System institutions and school districts. Workforce literacy programs are designed:

- To ensure that a sufficient numbers of employees who possess the skills necessary to perform in entry-level occupations exist;
- To adapt to technological advances in the workplace; and
- With the intention of supporting economic development in Florida by increasing adult literacy and producing an educated workforce.²⁹

Florida College System institutions and school districts may also offer courses that assist adults with gaining the communication and computation skills necessary to complete a career program, to gain or maintain entry-level employment, or to upgrade employment.³⁰

Funding for Workforce Education Programs

State funding and student fees for workforce education instruction are established as follows:

- Expenditures for the continuing workforce education programs provided by the Florida College System institutions or school districts must be fully supported by fees.
- For all other workforce education programs, state funding must equal 75 percent of the average cost of instruction with the remaining 25 percent made up from student fees, which are based on a uniform fee calculated and set at the state level, as adopted by the State Board of Education, unless otherwise specified in the General Appropriations Act.
- For fee-exempt students pursuant to s. 1009.25, F.S., unless otherwise provided for in law, state funding shall equal 100 percent of the average cost of instruction.³¹

Since 2011, state funds allocated for postsecondary workforce programs are explicitly prohibited from being used to educate state or federal inmates.³²

III. Effect of Proposed Changes:

The bill amends ss. 951.176 and 944.801, F.S., authorizing a county or municipal detention facility or the DOC to contract with a district school board, the Florida Virtual School, or a charter school to provide educational services. The educational services may include any educational, career, or vocational training that is authorized by a county or municipal detention facility or the DOC.

The bill also amends s. 1011.80, F.S., to allow state funding for postsecondary education to be used on inmates with less than 24 months of time remaining on his or her sentence.

²⁸ Section 1011.80(2), F.S. Section 1011.80(1), F.S., defines the terms workforce education and workforce education program to include: a) adult general education programs designed to improve the employability skills of the state's workforce as defined in s. 1004.02(3), F.S.; b) career certificate programs, as defined in s. 1004.02(20), F.S.; c) applied technology diploma programs; d) continuing workforce education courses; e) degree career education programs; f) apprenticeship and preapprenticeship programs as defined in s. 446.021, F.S.

²⁹ Section 1004.98, F.S.

³⁰ See s. 1004.98, F.S.

³¹ Section 1011.80(5), F.S.

³² Section 1011.80(7) F.S. and ch. 2011-63, s. 35, L.O.F.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill authorizes a charter school or virtual instruction provider, which can be managed by a for-profit entity, to contract with the DOC or a county or municipal entity to provide educational services to inmates. To the extent that this bill increases the pool of students that a private company can serve, it may result in a positive fiscal impact to the private company.

C. Government Sector Impact:

The bill authorizes the state or a local entity to contract with district, charter, or virtual school entities (school providers) to offer educational services to its inmates. Such services would be provided by the school providers through the workforce education models that currently exist and out of the lump sum of money that is provided to the school providers for these programs. The DOC or a county and municipal detention facility can utilize funds appropriated for the education of inmates to contract with the school providers to offer such educational services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 944.801, 951.176, and 1011.80.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
